

109TH CONGRESS
1ST SESSION

H. R. 3863

To provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2005

Mr. JINDAL (for himself, Mr. BOEHNER, Mr. McKEON, Mr. BOUSTANY, Mr. PAUL, Mr. GEORGE MILLER of California, Mr. HINOJOSA, Mr. KILDEE, Mr. MARCHANT, and Mr. PICKERING) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Natural Disaster Student Aid Fairness Act”.

1 (b) REFERENCES.—References in this Act to “the
 2 Act” are references to the Higher Education Act of 1965
 3 (20 U.S.C. 1001 et seq.).

4 **SEC. 2. ALLOCATION AND USE OF CAMPUS-BASED HIGHER**
 5 **EDUCATION ASSISTANCE.**

6 (a) WAIVER OF MATCHING REQUIREMENTS.—Not-
 7 withstanding sections 413C(a)(2), 443(b)(5), and
 8 463(a)(2) of the Act (20 U.S.C. 1070b–2(a)(2); 42 U.S.C.
 9 2753(b)(5); 20 U.S.C. 1087cc(a)(2)), with respect to
 10 funds made available for academic years 2004–2005 and
 11 2005–2006—

12 (1) in the case of an institution of higher edu-
 13 cation located in an area affected by a Gulf hurri-
 14 cane disaster, the Secretary shall waive the require-
 15 ment that a participating institution of higher edu-
 16 cation provide a non-Federal share or a capital con-
 17 tribution, as the case may be, to match Federal
 18 funds provided to the institution for the programs
 19 authorized pursuant to subpart 3 of part A, part C,
 20 and part E of title IV of the Act; and

21 (2) in the case of an institution of higher edu-
 22 cation that has accepted for enrollment any affected
 23 students, the Secretary may waive that matching re-
 24 quirement after considering the institution’s student
 25 population and existing resources.

1 (b) WAIVER OF REALLOCATION RULES.—

2 (1) AUTHORITY TO REALLOCATE.—Notwith-
3 standing sections 413D(d), 442(d), and 462(i) of the
4 Act (20 U.S.C. 1070b–3(d); 42 U.S.C. 2752(d); 20
5 U.S.C. 1087bb(i)), the Secretary shall—

6 (A) reallocate any funds returned under
7 any of those sections that were allocated to in-
8 stitutions of higher education for award year
9 2004–2005 to an institution of higher education
10 that is eligible under paragraph (2) of this sub-
11 section; and

12 (B) waive the allocation reduction for
13 award year 2006–2007 for an institution re-
14 turning more than 10 percent of its allocation
15 under any of those sections.

16 (2) ELIGIBLE INSTITUTIONS FOR REALLOCA-
17 TION.—An institution of higher education may re-
18 ceive a reallocation of excess allocations under this
19 subsection if the institution—

20 (A) participates in the program for which
21 excess allocations are being reallocated; and

22 (B)(i) is located in an area affected by a
23 Gulf hurricane disaster; or

24 (ii) has accepted for enrollment any af-
25 fected students in academic year 2005–2006.

1 (3) BASIS OF REALLOCATION.—The Secretary
2 shall determine the manner in which excess alloca-
3 tions shall be reallocated to institutions under para-
4 graph (1), and shall give additional consideration to
5 the needs of institutions located in an area affected
6 by a Gulf hurricane disaster.

7 (4) ADDITIONAL WAIVER AUTHORITY.—Not-
8 withstanding any other provision of law, in order to
9 carry out this subsection, the Secretary may waive
10 or modify any statutory or regulatory provision re-
11 lating to the reallocation of excess allocations under
12 subpart 3 of part A, part C, or part E of title IV
13 of the Act in order to ensure that assistance is re-
14 ceived by affected institutions for affected students.

15 (c) AVAILABILITY OF FUNDS DATE EXTENSION.—
16 Notwithstanding any other provision of law—

17 (1) any funds available to the Secretary under
18 sections 413A, 441, and 461 of the Act (20 U.S.C.
19 1070b; 42 U.S.C. 2751; 20 U.S.C. 1087aa) for
20 which the period of availability would otherwise ex-
21 pire on September 30, 2005, shall be available for
22 obligation by the Secretary until September 30,
23 2006 for the purposes of the programs authorized
24 pursuant to subpart 3 of part A, part C, and part
25 E of title IV of the Act, respectively; and

1 (2) the Secretary may recall any funds allocated
2 to an institution of higher education for award year
3 2004–2005 under section 413D, 442, or 462 of the
4 Act that, if not returned to the Secretary as excess
5 allocations pursuant to any of those sections, would
6 otherwise lapse on September 30, 2005, and reallo-
7 cate those funds in accordance with subsection
8 (b)(1).

9 **SEC. 3. EMERGENCY DESIGNATION.**

10 Section 2 of this Act is designated as an emergency
11 requirement pursuant to section 402 of H. Con. Res. 95
12 (109th Congress).

13 **SEC. 4. TERMINATION OF AUTHORITY.**

14 The provisions of this Act shall cease to be effective
15 one year after the date of the enactment of this Act.

16 **SEC. 5. DEFINITIONS.**

17 In this Act:

18 (1) SECRETARY.—The term “Secretary” means
19 the Secretary of Education.

20 (2) AFFECTED STUDENT.—The term “affected
21 student” means an individual who has applied for or
22 received student financial assistance under title IV
23 of the Act, and who—

24 (A) was enrolled or accepted for enroll-
25 ment, as of August 29, 2005, at an institution

1 of higher education in an area affected by a
2 Gulf hurricane disaster;

3 (B) was a dependent student enrolled or
4 accepted for enrollment at an institution of
5 higher education that is not in an area affected
6 by a Gulf hurricane disaster, but whose parents
7 resided or were employed, as of August 29,
8 2005, in an area affected by a Gulf hurricane
9 disaster; or

10 (C) suffered direct economic hardship as a
11 direct result of a Gulf hurricane disaster, as de-
12 termined by the Secretary.

13 (3) GULF HURRICANE DISASTER.—The term
14 “Gulf hurricane disaster” means a major disaster
15 that the President declared to exist, in accordance
16 with section 401 of the Robert T. Stafford Disaster
17 Relief and Emergency Assistance Act (42 U.S.C.
18 5170), and that was caused by Hurricane Katrina or
19 Hurricane Rita.

20 (4) AREA AFFECTED BY A GULF HURRICANE
21 DISASTER.—The term “area affected by a Gulf hur-
22 ricane disaster” means a county or parish, in an af-
23 fected State, that has been designated by the Fed-
24 eral Emergency Management Agency for disaster as-

1 sistance for individuals and households as a result of
2 Hurricane Katrina or Hurricane Rita.

3 (5) AFFECTED STATE.—The term “affected
4 State” means the State of Alabama, Louisiana, Mis-
5 sissippi, or Texas.

6 (6) INSTITUTION OF HIGHER EDUCATION.—The
7 term “institution of higher education” has the
8 meaning given that term in section 102 of the High-
9 er Education Act of 1965 (20 U.S.C. 1002).

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